

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

-----X
JAN KONOPCA,

Civil No:

Plaintiff,

**COMPLAINT FOR
VIOLATIONS OF THE
TELEPHONE CONSUMER
PROTECTION ACT**

-against-

DEMAND FOR JURY TRIAL

SANTANDER CONSUMER USA, INC.,

Defendant.
-----X

Plaintiff JAN KONOPCA ("Plaintiff"), by and through his attorneys, The Law Office of Alan J. Sasson, P.C., as and for his Amended Complaint against the Defendant SANTANDER CONSUMER USA, INC., (hereinafter referred to as "Defendant"), respectfully sets forth, complains and alleges, upon information and belief, the following:

INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiff brings this action on his own behalf for damages and declaratory and injunctive relief arising from the Defendant's violation(s) under Title 47 of the United States Code, §227 commonly known as the Telephone Consumer Protection Act (TCPA).

PARTIES

2. Plaintiff is a resident of the State of New Jersey, County of Monmouth, residing in Long Branch, New Jersey.
3. Defendant SANTANDER CONSUMER USA, INC. is a corporation incorporated under the laws of the State of Illinois, with its principal place of business located in Dallas, Texas.

JURISDICTION AND VENUE

4. The Court has jurisdiction over this matter pursuant to 28 USC §1331.
5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

FACTUAL ALLEGATIONS

6. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “5” herein with the same force and effect as if the same were set forth at length herein.
7. On information and belief, on a date better known to Defendant, Defendant began its campaign of communicating with the Plaintiff via the use of an automated telephone dialing system and prerecorded messages throughout the past four years by calling his cell phone number of (732)222-2222 numerous times seeking a third party.
8. The Defendant called from numerous phone numbers, including but not limited to (877)768-2265, (888)222-4227, (214)540-0714, (214)237-3516 and (469)385-5260, all of which numbers belongs to Defendant.
9. Plaintiff confirmed these phone numbers as belonging to the Defendant by calling each of the phone numbers and being greeted by a female computerized voice stating:

“Welcome to Santander” or “Thank you for calling Santander Consumer USA”.
10. Defendant specifically called the Plaintiff’s cellular phone over fifty times in the one month period beginning on August 17, 2012 and ending on September 15, 2012, calling the Plaintiff’s cellular phone up to eight times per day.
11. Defendant specifically used an automated telephone dialing system and

prerecorded messages to call the Plaintiff on his cell phone on August 22, August 24, and August 28, 2012 amongst numerous other dates.

12. The Defendant would frequently leave prerecorded messages on the Plaintiff's cell phone, which would typically repeat in a female robotic voice:

"Hello, this is Santander Consumer USA. Please contact our Servicing Department using our toll-free number at 1(888)222-4227. Again, our toll-free number is 1(888)222-4227. You may also access your account online at www.SantanderConsumerUSA.com, using the My Account feature. Santander Consumer USA appreciates your prompt response." (followed by the message in Spanish).

13. The Plaintiff never gave the Defendant his prior, express permission to call his cell phone via the use of an automated telephone dialing system. Upon information and belief, Plaintiff has never provided his cell phone number to Defendant or had any credit card, store card or other business relationship with the Defendant.

14. Plaintiff had no wish to be contacted on his cell phone via the use of an autodialer, and expressly directed Defendant to stop calling his cell phone number on numerous occasions.

15. By placing auto-dialed calls and prerecorded messages to the Plaintiff's cell phone, the Defendant violated 47 USC §227(b)(A)(iii) which prohibits using any automated telephone dialing system or an artificial prerecorded voice to any telephone number assigned to a cellular telephone service when calling to the plaintiff's cell phone.

16. The Defendant therefore willfully violated the TCPA numerous times by placing autodialled calls and prerecorded messages to the Plaintiff's cell phone without his prior, express consent.

FIRST CAUSE OF ACTION
(Violations of the TCPA)

17. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “16” herein with the same force and effect as if the same were set forth at length herein.

18. Defendant’s debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the TCPA, including but not limited to 47 USC §227(b)(A)(iii).

19. As a result of Defendant’s violations of the TCPA, Plaintiff has been damaged and is entitled to damages in accordance with the TCPA.

DEMAND FOR TRIAL BY JURY

20. Plaintiff hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant as follows:

A. For mandatory statutory damages of \$500 each provided and pursuant to 47 USC §227(c)(2)(G)(3)(B), for all calls placed to the Plaintiff’s cellular phone;

B. Plaintiff requests enhanced trebled damages of \$1,500 to be awarded to the Plaintiff per call, in accordance with the TCPA, for the Defendant’s willful violations of the TCPA;

C. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York
May 14, 2015

Respectfully submitted,

LAW OFFICE OF ALAN J. SASSON, P.C.

By: /s/ Yitzchak Zelman
Yitzchak Zelman, Esq. (YZ5857)
ATTORNEYS FOR PLAINTIFF
1669 East 12 Street
Brooklyn, New York 11229
Phone: 718-339-0856
Fax: 347-244-7178
Email: yzelman@Sassonlaw.com